

**REMARKS**

Claims 1-28 are pending. The Office Action dated May 12, 2005 has been carefully considered. Claims 22-28 have been withdrawn from consideration in this Response. Reconsideration and allowance are respectfully requested in light of the following remarks.

Claims 1-28 stand restricted under 35 U.S.C. § 121. The Examiner identified eleven (11) species: the planter system of Figs. 1A and 1B; the planter system of Figs. 2A and 2B; the planter system of Fig. 8; the planter of Figs. 4A and 4B; the planter of Figs. 5A and 5B; the planter of Fig. 7; the tray of Figs. 1A and 1B; the tray of Fig. 2A and 2B; the tray of Figs. 3A-3E; the drainage tube system of Figs. 6A-6C; and the drainage tube system of Figs. 9A and 9B.

The Examiner has asserted a restriction requirement on the basis of a mere statement of conclusion that there is a lack of unity among various, assertedly patentably-distinct, species. Applicant traverses the restriction requirement. The Examiner has not given reasons for insisting upon restriction (MPEP 808) by giving:

(A) the reasons (as distinguished from the mere statement of conclusion) why the inventions as claimed are either independent or distinct; and

(B) the reasons for insisting upon restriction therebetween as set forth in 808.01 or 808.02;

Nor has the Examiner shown by appropriate explanation (under MPEP 808.02 "Related Inventions") one of the following:

(A) separate classification of each distinct subject having attained recognition in the art as a separate subject for inventive effort, and also a separate field of search;

(B) a separate status in the art when the distinct inventions are classifiable together; or

(C) a different field of search;

Nor has the Examiner, in his letter for requiring restriction (MPEP 817):

(1) identified each group by Roman numeral;  
(2) listed claims in each group;  
(3) given a short description of the total extent of the subject matter claimed in each group, pointing out critical claims of different scope and identifying whether the claims are directed to a combination, sub-combination, process, apparatus, or product; and  
(4) classified each group.

Applicant therefore requests reconsideration of the restriction requirement.

Applicant provisionally elects with traverse, the embodiment of the tray, as shown in Figures 1A-1B, to prosecute in the present application as required by the Examiner. Applicant identifies original Claims 1-7 as reading upon the embodiment shown in Figures 1A-1B. Applicant considers Claim 1 to be generic. Claims 8-15 are directed towards a tray as shown in Figures 2A-B, similar to the tray shown in Figures 1A-B but having a sloping upper surface for directing excess water towards the drain and having a passageway formed through the bottom of the tray connecting a drain opening to a drain outlet. Claims 15-21 are directed towards a tray as shown in Figures 3A-E, similar to the tray shown in Figures 1A-B but having a sloping upper surface for directing excess water towards the drain and a having a passageway connecting a drain opening to a drain outlet.

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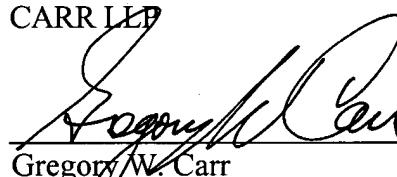
PATENT APPLICATION  
SERIAL NO. 10/694,067

Applicant encloses a check in the amount of \$225.00 for an extension of time for making this reply. Applicant does not believe that any other fees are due; however, in the event that any other fees are due, the Commissioner is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper to Deposit Account No. 50-0605 of CARR LLP.

Should the Examiner require any further clarification to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

CARR LLP

  
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